



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, SUPSHIP USN, Gulf Coast, Pascagoula, Mississippi.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is establishing a restricted area around the Huntington Ingalls Incorporated/Ingalls Shipbuilding and Dry Dock (HII) facility located in Pascagoula Mississippi, because of the sensitive nature of the on-going and potential future activities at that facility. The Supervisor of Shipbuilding, Conversion and Repair, Gulf Coast, located in Pascagoula, Mississippi is responsible for United States Navy shipbuilding activities at the HII facility, USA located in Pascagoula, Mississippi. The restricted area will be used for on-going construction when vessels are placed in the water. The restricted area is essential to protect persons and property from the dangers associated with the operation and safeguard the area from accidents, sabotage and other subversive acts.

DATES: Effective date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922,

or Mr. Philip Hegji, Corps of Engineers, Mobile District, Regulatory Division, at 251-690-3222 or by email at philip.a.hegji@usace.army.mil.

#### SUPPLEMENTARY INFORMATION:

##### Background

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps of Engineers is establishing a restricted area around the Huntington Ingalls Incorporated/Ingalls Shipbuilding and Dry Dock (HII) facility located in Pascagoula Mississippi, due to the sensitive nature of the on-going and potential future activities at that facility.

The proposed rule was published in the August 18, 2014 issue of the Federal Register (79 FR 48716; docket number COE-2014-0008). Comments were received from one commenter in response to the Federal Register document and the Corps of Engineers Mobile District's local public notice. The commenter objected to the size of the restricted area. The commenter was concerned that depending on the size/configuration of vessels in the navigational channel and river conditions some vessels might end up operating within the outer limits of the restricted area.

HII amended the restricted area to a smaller more easily avoided configuration.

##### Procedural Requirements

###### a. Review under Executive Order 12866.

This final rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

###### b. Review under the Regulatory Flexibility Act.

This final rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The restricted area is necessary for security of this shipbuilding and dry dock facility. Small entities can utilize navigable waters outside of the restricted area. After considering the economic impacts of this final restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review under the National Environmental Policy Act.

Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps determined that this amendment to the regulation will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment was prepared after the public notice period closed and all comments received from the public were considered. The environmental assessment may be viewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT section, above.

d. Unfunded Mandates Act.

This rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the

requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR Part 334 as follows:

PART 334 -- DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.781 to read as follows:

§ 334.781 Supervisor of Shipbuilding, Conversion and Repair Gulf Coast, Pascagoula, Mississippi; naval restricted area.

(a) The area. The datum for all coordinates is in NAD83 in accordance with 33 CFR 334.6. The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area identified as the Huntington Ingalls Incorporated/Ingalls Shipbuilding and Dry Dock (HII) facility and the mean high water level within an area contained in an “L” shaped area bounded by the shore on the west and north ends of the area and bounded by buoys on the east and south sides of the area starting at: Latitude N30°21.13’ longitude W88°34.13’, thence to Latitude N30°21.08’ longitude W88°34.13’, thence to Latitude N30°21.03’ longitude W88°34.13’, thence to Latitude N30°20.98’ longitude W88°34.13’, thence to Latitude N30°20.93’ longitude W88°34.13’, thence to Latitude N30°20.88, longitude W88°34.13’,

thence to Latitude N30°20.83' longitude W88°34.13', thence to Latitude N30°20.78' longitude W88°34.13', thence to Latitude N30°20.73' longitude W88°34.13', thence to Latitude N30°20.68' longitude W88°34.13', thence to Latitude N30°20.63' longitude W88°34.13', thence to Latitude N30°20.64' longitude W88°34.10', thence to Latitude N30°20.64' longitude W88°34.25', thence to Latitude N30°20.64' longitude W88°34.33', thence to Latitude N30°20.64' longitude W88°34.41', thence to Latitude N30°20.59' longitude W88°34.47', thence to Latitude N30°20.59' longitude W88°34.51', thence to Latitude N30°20.59' longitude W88°34.57', thence to Latitude N30°20.59' longitude W88°34.63', thence to Latitude N30°20.59' longitude W88°34.70', thence to Latitude N30°20.64' longitude W88°34.75', thence to Latitude N30°20.64' longitude W88°34.82', thence to Latitude N30°20.64' longitude W88°34.87', thence to Latitude N30°20.71' longitude W88°34.87'. The datum for these coordinates is WGS84.

(b) The regulations. (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without permission from the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulfcoast or his/her authorized representative.

(2) The restricted area is in effect twenty-four hours per day and seven days a week (24/7).

(3) Should warranted access into the restricted navigation area be needed, all entities are to contact the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf

Coast, Pascagoula, Mississippi, or his/her authorized representative on Marine Communication Channel 16.

(c) Enforcement. The regulation in this section shall be enforced by the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast and/or such agencies or persons as he/she may designate.

Dated: December 1, 2016.

Approved: \_\_\_\_\_

Susan S. Whittington

Chief, Operations and Regulatory Division

Directorate of Civil Works

[FR Doc. 2016-30015 Filed: 12/14/2016 8:45 am; Publication Date: 12/15/2016]